



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 19 April 2005**

**8188/05**

**JUR 174  
API 73**

**NOTE**

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from:	Legal Service
to:	Permanent Representatives Committee (part II)
Subject:	Cases C-39/05 P (Kingdom of Sweden v. Council of the European Union) and C-52/05 P (Maurizio Turco v. Council of the European Union)

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1. By an Application registered with the Court of Justice on 2 February 2005 and notified to the Council on 14 March 2005, the Kingdom of Sweden appealed the judgment of the Court of First Instance of 23 November 2004 in Case T-84/03 (Maurizio Turco v. Council of the European Union).
2. By an Application registered with the Court of Justice on 9 February 2005 and notified to the Council on 14 March 2005, Mr Turco appealed the same judgment.
3. In its Application in appeal, Sweden argues that the Court of First Instance erred in finding that there is a “general secrecy requirement” for legal service opinions in legislative matters.
4. In his Application in appeal, Mr Turco argues that the Court of First Instance misinterpreted and misapplied the term “legal advice” in Article 4(2) of Regulation 1049/2001. He also argues that the Court erred in qualifying the legal opinion at issue as “legal advice”. In addition, he believes that the Court misapplied the “principle of the widest possible access to documents” and the principle that requests for access to documents should be assessed on a case-by-case basis. The Applicant furthermore argues that the Court misapplied the concept of

“overriding public interests” in Article 4(2) and wrongly placed the burden of proof on him. Lastly, he attacks the Court’s reasoning concerning the need to protect the Council’s legal advice and argues that the judgment is insufficiently reasoned.

5. The Director-General of the Council Legal Service, Mr. Jean-Claude PIRIS, has appointed himself and Mr. Martin BAUER and Mr. Bart DRIESSEN, members of the Legal Service, as the Council’s agents in this case.

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